

December 29, 2016

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RE: Input for the Fourth CERCLA Five-Year Review of the Rocky Flats Site

The City and County of Broomfield (Broomfield) is providing comments and recommendations to the upcoming Fourth Five-Year Review of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) remedy at the Rocky Flats Environmental Technology Site, Colorado (Site). Although this is referenced as the Fourth CERCLA Five-Year Review, Broomfield would like to note that this is only the second CERCLA Five-Year Review since the final physical and regulatory closure occurred at the Site in 2006. The intent of this letter is to provide the Department of Energy, Office of Legacy Management (DOE-LM), and the Environmental Protection Agency (EPA) with Broomfield's issues that should be acknowledged and addressed in final determination of the Fourth Five-Year Review Report for the Rocky Flats site.

Broomfield has been, and continues to be, very involved with the remedy and long-term stewardship activities at the Site. Based on the variability of the analytical data and Site inspection reports, it is clear the Site has not fully stabilized. The Site continues to have reportable conditions at points of evaluation (POE) on Woman Creek and Walnut Creek. In addition, the water quality sampling at the Walnut Creek point of compliance (WALPOC) recently exceeded the uranium standards. Although the sampling result at WALPOC didn't exceed the 12-month rolling average, it was the first time that elevated levels have been observed at a regulatory point of compliance after closure.

With the documented instability in the water sampling results, continued ground surface movements, and ongoing revegetation efforts, there has not been an opportunity to develop a reliable baseline and ensure the remedy is functioning per its intended design. Because Site conditions directly impact our community, Broomfield continues to have concerns and requests that the following issues/recommendations be addressed and included in the Fourth CERCLA Five-Year Review:

1. **Terminal Dam Breaching**

In 2010, Broomfield worked diligently with DOE-LM to develop an Adaptive Management Plan (AMP) to identify a process to address the downstream communities' "Critical Concerns" and develop criteria to determine if and when the terminal dams could be breached.

The terminal ponds serve as the downstream communities' last measure of defense against water-borne contamination migrating from the Site and provide a crucial mechanism to effectively remove plutonium, americium, and potentially uranium. Broomfield opposes breaching the terminal dams until the successful demonstration that the remedy continues to function properly without significant issues, changes to site conditions, or water quality exceedances for two consecutive CERCLA Five-Year reviews. Successful demonstration of the remedy should be based on the following criteria, and the criteria should be cited in the Fourth CERCLA Five-Year Review:

- No water quality exceedances or elevated levels at any surface water Points of Compliance (POC), surface water Points of Evaluation (POE), surface water monitoring at Indiana Street (regardless of the designation as a POC, or not), and groundwater Area of Concern (AOC) wells.
- Surface water and groundwater monitoring are not showing increasing trends.
- Sustained functional performance of the groundwater treatment units without changes, modifications, enhancements, or alterations to the treatment process.
- No significant erosion activities, landslides, slippage, slope failure or other geological activity where surface or subsurface soils are mobilized or disturbed.
- No abnormal or unforeseen condition that could have an adverse effect on the breaching of the dams.

Broomfield believes our proposal is a solution that meets the intent of the Purpose and Needs noted in the Environmental Assessment for dam breaching.

2. **Rocky Flats Uranium Surface Water Issues**

The Site continues to have issues meeting uranium surface water standards at WALPOC. As recent as January 4, through January 28, 2016, WALPOC had a reportable condition for uranium since the calculated 30-day average resulted in a concentration of 16.9 micrograms per liter. The Rocky Flats Legacy Management Agreement (RFLMA) standard is 16.8 micrograms per liter. A previous uranium exceedance is documented at the same location for the time period from November 1, 2013, to October 23, 2014. The sampling results for the 2013/2014 event had a value of 17.2 micrograms per liter. Without the terminal ponds in place, there is a potential risk for contamination migrating off-site into our watersheds and communities.

Based on continuing issues at the WALPOC and GS-10, along with the variability in the

quality of surface water, the Fourth Five-Year Review should include a detailed action plan to evaluate and address these ongoing problems. Based on these recent exceedances, it is clear that the remedy has not stabilized and uranium continues to migrate both on and off-site.

With the ongoing issues with uranium, Broomfield will oppose any proposal to amend the uranium standard that results in a higher regulatory concentration, reduces the monitoring frequency, or alters the method of data averaging for reporting. The CERCLA review should not make references to the current EPA drinking water standard for uranium since the drinking water standard does not apply to the Site. The site-specific standard for uranium should be the only threshold used to determine whether or not the uranium concentrations leaving the Site comply with the regulatory requirements..

3. Present Landfill

Since regulatory closure in 2016, the treated effluent downstream for the Present Landfill Treatment System (PLFTS) has frequently exceeded the Site's water quality standards. In fact, the consultative process between DOE-LM and federal and state regulators has been triggered every calendar year since closure. Vinyl chloride, boron, and selenium are the contaminants that have registered elevated levels and the concentrations for these contaminants downstream of the PLFTS continue to fluctuate.

Broomfield opposed the breaching of the Present Landfill dam since it eliminated a physical mechanism to prevent contaminated water from migrating off-site. The past two Five-Year CERCLA Reviews identified continuing problems with the water quality at the Present Landfill. Broomfield requests that the Fourth CERCLA Five-Year Review include a clearly defined corrective action plan to address this ongoing water quality issue. When the water quality in the Present Landfill pond exceeds applicable standards, any discharge or release from the pond should immediately cease until subsequent sampling demonstrates that the water quality meets the RFLMA standards.

4. Effectiveness of Groundwater Treatment Units

We appreciate DOE-LM's efforts to continually modify the groundwater treatment units so they are more efficient and effective. However, the Solar Pond Treatment (SPT) Unit has been operating in "treatability mode" since closure. Broomfield recommends that DOE-LM develop and implement a long-term corrective action for the SPT unit. The uranium and nitrate levels entering the SPT unit, as well as the levels leaving the SPT unit, continue to be elevated. The Fourth CERCLA Five-Year Review should include a specific list of water treatment criteria that the SPT unit needs to meet. In the absence of such criteria, the ability to demonstrate the short- and long-term effectiveness of the groundwater treatment units becomes highly suspect and questionable

5. Effectiveness of Communication

The Quarterly Technical Meetings between DOE-LM and the downstream communities are

crucial for maintaining the relationships that support the long-term stewardship activities at the Site. We would like to thank DOE-LM and the federal and state regulators for engaging in such a valuable communication process that includes the communities most directly impacted by the Site. We recommend the continuation of the Quarterly Technical Meetings and request that the value of these meetings be acknowledged in the Fourth CERCLA Five-Year Review. The Quarterly Technical Meeting should occur four months after RFLMA technical documents are released. This will provide the downstream communities with sufficient time to evaluate the data, activities, and other information contained in the documents prior to the meetings. Broomfield recently provided DOE-LM with the proposed technical meeting dates for 2017.

In closing, Broomfield would formally request a sixty-day (60-day) public comment period when the Fourth CERCLA Five-Year Review document is released in 2017. Our request is based on the complexity of the Site, and the amount of documents and data that needs to be reviewed concurrent with the Fourth CERCLA Five-Year Review.

Broomfield looks forward to your response to our comments. In addition, we would like to schedule a future meeting to review the disposition of Broomfield's comments. Finally, we ask that DOE-LM respond to our comments on an individual basis rather than grouping comments and providing general responses. This request is intended to demonstrate your due diligence and commitment to the long-term stewardship of the Site.

Thank you for the opportunity to provide advance comments on this important document. If you have any questions regarding our comments, please contact Mr. David Allen, Director of Public Works, at (303) 438-6348. We look forward to seeing our comments addressed, and recommendations included, in the Fourth CERCLA Five-Year Review.

Sincerely,

Charles Ozaki
City and County Manager

cc:
Senators
Representatives
Head of DOE-LM
Head of EPA
Martha Rudolph, CDPHE
Joe Schieffelin, CDPHE
Carl Spreng, CDPHE

David Allen, City and County of Broomfield
Shirley Garcia, City and County of Broomfield
Woman Creek Authority,
Cathy Sugarts, City of Westminster
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